IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4959 of 1999

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MAHAGUJARAT GENERAL WORKERES UNION - Petitioner(s)

Versus

DY.LABOUR COMMISSIONER FOR SAURASHTRA KUTCH & 1 - Respondent(s)

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Appearance :

MR JT TRIVEDI for Petitioner No(s).: 1.

MR KL PANDYA AGP for Respondent No(s).: 1.MR PS CHARI for Respondent No(s).: 2.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 04/08/2005

ORAL JUDGMENT

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1.0 The petitioner Union has challenged the order dated 15.01.1999 passed by respondent no.1 herein, wherein

respondent no.1 had declined to refer the dispute on hand to the appropriate authority.

2.0 The brief facts of the case are that the petitioner Union had approached the Conciliation Officer, Junagadh with certain demands of the members thereof who were serving with respondent no.2 since long period of time. The said prayer was rejected by respondent no.1 herein vide order dated 15.01.1999. Hence, this petition.

3.0 I have heard learned counsel for the parties and perused the documents placed on record. The impugned order of the Conciliation Officer is without any jurisdiction since the dispute on hand was required to be adjudicated by the competent authority under the Industrial Disputes Act, 1947. The Conciliation Officer, by declining to refer the dispute, has travelled beyond the scope of his jurisdiction.

3.1 Respondent no.1 has to only decide as to whether there exists any dispute between the parties, and, if he comes to the conclusion that a dispute exists, then he has to refer the said dispute to the competent authority under the Industrial Disputes Act, 1947. In the present

case, by declining to make the reference, the Conciliation Officer has committed serious mistake.

4.0 In above view of the matter, the impugned order dated 15.01.1999 passed by respondent no.1 is quashed and set aside. Respondent no.1 is directed to refer the dispute in question to the competent authority under the Industrial Disputes Act, 1947 within a period of two months from the receipt of writ of this order. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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